

OPINION
51-32

February 21, 1951 (OPINION)

COUNTIES

RE: Court Reporter

Your letter of January 31, 1951, addressed to the attorney general, has been received. In this letter you inquire if one of the court reporters for the Second Judicial District who is serving as clerk of the Legislature can receive can pay from both sources.

We call your attention to section 27-0603 which reads as follows:

"Each district court reporter shall attend the district court sessions within or without the district whenever the judge appointing him shall take in shorthand all testimony given orally by the witnesses, all objections and rulings made and exceptions taken, any instructions given orally by the court, and all other proceedings at the hearing or trial not otherwise reduced to writing."

You will note that the reporter is appointed by the district judge and it is our opinion that if the reporter performs the duties designated by the judge appointing him, that he would then be allowed to earn money on the side. However, the office is one for which the Legislature has provided full remuneration, a yearly salary, and as such, the reporter must hold the office open that the bar and bench may avail itself of that service whenever the need may arise. The court reporter cannot absent himself for a period of sixty days while engaging in other full-time employment and avail himself of compensation for both, and qualify in each position; it necessarily follows that one position is neglected and vacant.

We must, therefore, hold that in the instant case, the Second Judicial District is without one reporter, and since the office is vacant, no salary be paid.

ELMO T. CHRISTIANSON

Attorney General